

§ 310.40

under any other regulation, directive, or statute.

(4) Do not use fees to discourage requests.

(b) *No minimum fees authorized.* Use fees only to recoup direct reproduction costs associated with granting access. Minimum fees for duplication are not authorized and there is no automatic charge for processing a request.

(c) *Prohibited fees.* Do not charge or collect fees for:

(1) Search and retrieval of records;

(2) Review of records to determine releasability;

(3) Copying records for DoD Component convenience or when the individual has not specifically requested a copy;

(4) Transportation of records and personnel; or

(5) Normal postage.

(d) *Waiver of fees.* (1) Normally, fees are waived automatically if the direct costs of a given request is less than \$30. This fee waiver provision does not apply when a waiver has been granted to the individual before, and later requests appear to be an extension or duplication of that original request. A DoD Component may, however, set aside this automatic fee waiver provision when on the basis of good evidence it determines that the waiver of fees is not in the public interest.

(2) Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis.

(e) *Fees for members of Congress.* Do not charge members of Congress for copying records furnished even when the records are requested under the Privacy Act on behalf of a constituent (see §310.41(k) of subpart E). When replying to a constituent inquiry and the fees involved are substantial, consider suggesting to the Congressman that the constituent can obtain the information directly by writing to the appropriate offices and paying the costs. When practical, suggest to the Congressman that the record can be examined at no cost if the constituent wishes to visit the custodian of the record.

(f) *Reproduction fees computation.* Compute fees using the appropriate portions of the fee schedule in subpart

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G of the DoD Freedom of Information Program (32 CFR part 286).

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Subpart E—Disclosure of Personal Information to Other Agencies and Third Parties

§ 310.40 Conditions of disclosure.

(a) *Disclosures to third parties.* (1) The Privacy Act only compels disclosure of records from a system of records to the individuals to whom they pertain.

(2) All requests by individual for personal information about other individuals (third parties) shall be processed under the DoD Freedom of Information Program (32 CFR part 286), except for requests by the parents of a minor, or legal guardians of an individual, for access to the records pertaining to the minor or individual.

(b) *Disclosures among DoD Components.* For the purposes of disclosure and disclosure accounting, the Department of Defense is considered a single agency (see §310.41(a)).

(c) *Disclosures outside the Department of Defense.* Do not disclose personal information from a system of records outside the Department of Defense unless:

(1) The record has been requested by the individual to whom it pertains.

(2) The written consent of the individual to whom the record pertains has been obtained for release of the record to the requesting agency, activity, or individual, or

(3) The release is for one of the specific nonconsensual purposes set forth in §310.41 of this part.

(d) *Validation before disclosure.* Except for releases made in accordance with the Freedom of Information Act (5 U.S.C. 552), before disclosing any personal information to any recipient outside the Department of Defense other than a federal agency or the individual to whom it pertains:

(1) Ensure that the records are accurate, timely, complete, and relevant for agency purposes;

(2) Contact the individual, if reasonably available, to verify the accuracy,

timeliness, completeness, and relevancy of the information, if the cannot be determined from the record; or

(3) If the information is not current and the individual is not reasonably available, advise the recipient that the information is believed accurate as of a specific date and any other known factors bearing on its accuracy and relevancy.

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57800, Nov. 14, 1991]

§ 310.41 Nonconsensual disclosures.

(a) *Disclosures within the Department of Defense.* (1) Records pertaining to an individual may be disclosed without the consent of the individual to any DoD official who has need for the record in the performance of his or her assigned duties.

(2) Rank, position, or title alone do not authorize access to personal information about others. An official need for the information must exist before disclosure.

(b) *Disclosures under the Freedom of Information Act.* (1) All records must be disclosed if their release is required by the Freedom of Information Act (5 U.S.C 552) see also the DoD Freedom of Information Program (32 CFR part 286). The Freedom of Information Act requires that records be made available to the public unless exempted from disclosure by one of the nine exemptions found in the Act. It follows, therefore, that if a record is not exempt from disclosure it must be disclosed.

(2) The standard for exempting most personal records, such as personnel records, medical records, and similar records, is found in Exemption Number 6 of 32 CFR 286.31. Under that exemption, release of personal information can only be denied when its release would be a "clearly unwarranted invasion of personal privacy."

(3) Release of personal information in investigatory records including personnel security investigation records is controlled by the broader standard of an "unwarranted invasion of personal privacy" found in Exemption Number 7 of 32 CFR 286.31. This broader standard applies only to investigatory records.

(4) See 32 CFR part 286 for the standards to use in applying these exemptions.

(c) *Personal information that is normally releasable*—(1) *DoD civilian employees.* (i) Some examples of personal information regarding DoD civilian employees that normally may be released without a clearly unwarranted invasion of personal privacy include:

- (A) Name.
- (B) Present and past position titles.
- (C) Present and past grades.
- (D) Present and past salaries.
- (E) Present and past duty stations.
- (F) Office or duty telephone numbers.

(ii) All disclosures of personal information regarding federal civilian employees shall be made in accordance with the Federal Personnel Manual (FPM) 5 CFR parts 293, 294, 297 and 735.

(2) *Military members.* (i) While it is not possible to identify categorically information that must be released or withheld from military personnel records in every instance, the following items of personal information regarding military members normally may be disclosed without a clearly unwarranted invasion of their personal privacy:

- (A) Full name.
- (B) Rank.
- (C) Date of rank.
- (D) Gross salary.
- (E) Past duty assignments.
- (F) Present duty assignment.
- (G) Future assignments that are officially established.
- (H) Office or duty telephone numbers.
- (I) Source of commission.
- (J) Promotion sequence number.
- (K) Awards and decorations.
- (L) Attendance at professional military schools.

(M) Duty status at any given time.

(ii) All releases of personal information regarding military members shall be made in accordance with the standards established by 32 CFR part 286.

(3) *Civilian employees not under the FPM.* (i) While it is not possible to identify categorically those items of personal information that must be released regarding civilian employees not subject to the Federal Personnel Manual (5 CFR parts 293, 294, 297 and 735), such as nonappropriated fund employees, normally the following items may